



## Lamoine Board of Selectmen Minutes of October 5, 2006

Chair Jo Cooper called the meeting to order at 6:48 PM.

Present were: Selectmen Richard Fennelly, Cynthia Donaldson, S. Josephine Cooper, Brett Jones (Perry Fowler had called to say he was unable to attend); Administrative Assistant Stu Marckoon, Code Enforcement Officer Dennis Ford, Town Attorney Diane O'Connell

Cynthia moved to go into executive session pursuant to 1 MRSA § 405 (6) (E) to discuss the Tweedie case with town attorney Diane O'Connell. Brett 2<sup>nd</sup>. **Vote in favor was 4-0.** In at 6:48 PM Out at 7:02 PM.

**Regular Meeting** – The regular meeting of the Board of Selectmen came to order at 7:04 PM. In addition to those listed above, attendees included Thomas Barr, William Fennelly, Kerry Galeaz, Stuart & Lisa Branch, Gerald Ford, Michael Jordan, Bonnie Moretto, Troy Dow, and Kathleen DeFusco

**Agenda Review** – There were no changes to the printed agenda, though a printed addendum was prepared, and no changes were made to that.

**Minutes** – Cynthia inquired whether Brett and Jo had visited the stump grinding site following the gravel pit site visit on September 23<sup>rd</sup>. Both indicated they had. Jo moved to approve the minutes of September 21, 2006 with two very minor corrections. Cynthia 2<sup>nd</sup>. **Vote in favor was 3-0 (Fennelly abstained).** Jo moved to approve the minutes of September 23, 2006, including a notation that she and Brett attended the stump grinder site visit. Cynthia 2<sup>nd</sup>. **Vote in favor was 3-0 (Fennelly abstained).**

**Tweedie Case** – Jo moved to authorize town attorney Diane O'Connell to negotiate on behalf of the Town of Lamoine with the attorney for Mr. Tweedie et al. Brett 2<sup>nd</sup>. **Vote in favor was 4-0.**

**Meeting with Parks Commission** – Bloomfield Park – Parks Commission chair Kerry Galeaz said the commission has talked about the condition of the road leading into Bloomfield Park ever since the commission formed. He said he wasn't sure where to start to make the effort to make the road passable. He said he's not sure who owns the road. He said the traffic going to the beach impacts the road, so the town is somewhat responsible to maintain it.

Stuart Branch said he asked Stu Marckoon to pull the deeds to the land involved. Stu Marckoon read the reference from the will of Bloomfield Smith giving the beach area to

the town. A lengthy discussion followed on interpreting the deeds and the access to Bloomfield Park from Asa's Lane.

Mr. Branch said his concern is the amount of traffic the park creates. He said it's more than people think, and the park is not controlled. He said the speed of vehicles is also a concern. He said he didn't want to create a situation where traffic speed is unsafe. He said while the town probably has a right of way it doesn't have the right to fix the road in a way to make things more dangerous. Richard asked if Mr. Branch would agree that the town has the right to fix the road. Mr. Branch said there probably is a right to fix a right of way. He said the town did nothing when John Goodwin cut off the existing road at his gravel pit. A short discussion followed. Stu Marckoon got the deed from Ben Whitcomb to the town from the vault. Another discussion on deeds and access followed.

Mr. Branch said he and his wife would like to move the access road to the beach area closer to the beach and have his driveway branch off from that, discontinuing the road that goes by his home. Richard asked if he means to change whatever easement the town might have. A short discussion followed. Mr. Branch said he would like to go to the site with the Parks Commission and flag out what he has in mind. He said he can't develop the lot in front of his home on the pond, so he's willing to sacrifice it to fix the access issue.

Brett asked if a keyed gate might be possible. Lisa Branch said they would allow that. Mr. Galeaz had a question on the potential configuration of the road. Mr. Branch said they could create a turning circle which creates better parking. CEO Dennis Ford asked what kind of growth is in the area Mr. Branch is referring to. A short discussion followed and Mr. Ford advised that the situation would need to be discussed with the Department of Environmental Protection.

Jo said the town doesn't do any maintenance to speak of because it's not a town road per se. She said the Selectmen agreed with the Branch family that they wouldn't do anything in order to keep the pot holes in place as speed bumps. Mr. Branch said limiting access was not what they had intended. He said usage is heavier as there are more people in town. He said his family has put up with a lot.

Mr. Galeaz said part of the reason for the Parks Commission's formation was to address what's going on there. He said it's a very remote location and he sympathized with the Branches. He said there might be other ways than not fixing pot holes to discourage unsafe traffic. Mr. Branch repeated that the town could move the road to the pond side and could gate it if the town wished. He said that would not affect his home. Richard said there would be some cost to the town to redirect and maintain that road.

Mr. Galeaz said the new ordinance gives the opportunity for people to call the Sheriff's Department for enforcement. Mr. Branch said they have called. Mr. Galeaz said the Parks Commission will have to look at the hours and how to control the area. A short discussion followed about a gate.

Jo said the thing to do would be to have the Parks Commission, the CEO and the Branches meet at the area, walk it, and see what the next step would be. Mr. Branch said he was against flattening out the road so people could speed. He said he didn't know whether the town has the right to fix it. A short discussion followed on safety. William Fennelly said he spoke with a surveyor who told him that because a road was not abandoned the town could maintain it but not make it any larger. Jo repeated the next step would appear to be to have people look at the site and then figure out the proper legal approach. Further discussion followed on safety and mischief issues.

Bonnie Moretto urged the Branches to give the Sheriff's Department a chance now that the ordinance is in place. A brief discussion on law enforcement followed. Mr. Galeaz said the Parks Commission is committed to working with the Branches and will look at their issues. William Fennelly said the town offers a service and the townspeople ought to have a right to pass on the road at their own risk. Jo again stated her desire to have the parties meet at the site. Stu said there would be an advantage to having a clear written easement for future generations. He said Stacey Curtis should also be involved since he owns a small strip of land that the access road crosses.

Lamoine Beach- Mr. Galeaz said there is a ban on vehicles on the beach, and there are lots of stray roads by the bathroom entrance. He said the Parks Commission would like the blessing of the Selectmen to close access on those roads so that the only access is from the boat ramp area. Jo said she didn't know what the process would be to do that. Stu said it would be as simple as hiring a contractor to place the rocks. William Fennelly said there have been a lot of problems from people trashing the area. Dennis Ford asked if there was a right-of-way. Stu said not to his knowledge.

Richard Fennelly asked if there was a formal road inventory showing all the ancient roads the town might own. Stu said there is not. A short discussion followed on road inventory. Jo moved to authorize the Parks Commission put a boulder where they see fit. Richard 2<sup>nd</sup>. Vote in favor was 4-0.

**Cell Phone Tower Update** – Stu reported that he put an e-mail from the attorney for Cingular in the Selectmen's Packet.

**Gravel Sale History** – Stu said he did quite a bit of research and put a report in the packet. He said he didn't remember if or when there was discussion on where to move the extraction area. Jo said she remembered it being an informal discussion. Stu said he first noticed it appearing in the planning board permitting process. Jo said the missing step in the matter was putting it into a contract.

Richard said he watched the recording of the last meeting, and it was pretty clear that members of the public were convinced that a survey using photography of the area could still be done. He said he spoke with the Sewall Company and they told him they were not able to do that. He said if it would put the issue to bed, he could bring a person from the Sewall Company down to a meeting, which they are willing to do. He said they would explain why they can't do the process as suggested by others. He said the town

could pay for their time. He said people are questioning his word, and he'd just as soon put it to bed.

Jo noted there was another e-mail received tonight. She said the distrust runs very deep, and this is just one detail of it. She said she's not sure where that distrust comes from or if it could ever be resolved. She said she's not sure about spending money on every issue that comes up would be wise. She said she's reluctant to spend even \$200 on that. She said Sewall wrote a letter and addressed this matter several different ways. Richard said it was stated clearly at the last meeting. He said Sewall told him it was virtually impossible to do it. Jo said we already have the information, and would have to pay \$200 to listen to it. Cynthia said she didn't think people were questioning the Selectmen's veracity. She said the feelings run deep. Jo said there were accusations made even during the site visits. She said she's not sure how to address, and not sure if they could. Richard said if this were his issue, he would be content with the information the town has, but the public still has an issue. Jo said she didn't think the board should spend the money. She said she's comfortable with referring people to the proper file. Cynthia asked if there was a file. Stu said there is a big one. Cynthia said the person who said it would cost an astronomical amount has written this down somewhere. Stu said it's in his file.

Stu said the e-mail received today says the writer is now satisfied with the measurements by Steve Salsbury being correct. He said it raises another issue in regard to waste being put on the bottom. He said he spoke with Selectman Perry Fowler about that earlier in the day and Perry had some recollections. Richard said the contract specified what the measurement process would be. He said the question is what is underneath that restoration. Brett said it is conceivable the material is screening material from making loam. Stu said Perry told him the Planning Board had encouraged Gott to cover the area with loamy debris to filter the ground water. He said Perry told him that Mr. Googins had described that as being the material that was being dumped.

Jo said it appears only a few people are upset. She said she does want to follow up on the right-of-way issue over the town land. Brett said Gott had asked for a lease on the land for storage. He said the town should investigate the existing right of way. Jo asked how to do that. Stu suggested starting with Steve Salsbury. Richard asked if there was a way to get a copy of the baseline survey. Stu said sure. Jo said that was OK with her. Brett noted that Mr. Salsbury had an engineer verify his figures. He asked if the Selectmen want a better policy on entering such contracts. A short discussion followed on how to do that.

**Municipal Review Committee Nomination** – There were none.

**Flooring** – Brett said he did some research on-line and EBS was supposed to fax something to the town office, but it hasn't been received yet. He suggested postponing until the next meeting. He said vinyl squares would look like what's at the school. He said an engineered floor is more expensive, but could put down over the existing floor without damage. He said the finish is the big thing. He said it comes down to a numbers

crunch to figure out what is the most economical. A short discussion followed on floor types. Jo said it appears the board still needs more information and the matter is tabled.

**School Building Committee Meeting** – Stu said there would be a meeting on the 12<sup>th</sup> to gather public input into the school building project. He urged attendance. He said the ideas would be presented to the architect who would come back a few weeks later with a plan. He said he helped prepare a power point presentation on the process thus far. Richard asked how it was advertised. Stu said the Ellsworth American has an article in today's paper, the Lamoine Quarterly had a front page article, the school newsletter has an article, and there is a flyer going home with the school children. Richard said he hoped for a good turnout. Jo echoed that sentiment, and added that the building committee wants all opinions. Cynthia said she would be out of town and regrets she can't attend. Stu said comments would be accepted for a week afterward by mail or e-mail. Brett asked if it would be taped. Stu said he plans to do that, provided someone else presents the Power Point show.

**State Property Assessment Report** – Stu said it's in the packet. He said there is an opportunity to appeal, but since it was less than what the assessors said the town was worth, he would not recommend an appeal. Cynthia asked about the commercial accounts. Stu said most of those were gravel pits.

**Appeals Board** – Stu said both Griff Fenton and Reggie McDevitt were appointed as alternates at the same time. He said Reggie would just soon stay as an alternate and Griff was willing to move up. Jo moved to appoint Hancock "Griff" Fenton as a full Board of Appeals member. Richard 2<sup>nd</sup>. **Vote in favor was 4-0, Selectmen signed the appointment paper.**

Stu said the ad for a replacement as alternate set the 19<sup>th</sup> of October as the application date. He said he just got that prepared and posted this week.

**Warrant 7** – Selectmen reviewed expenditure warrant 7 and signed it in the amount of \$244,240.12. Stu noted the county tax bill, the school operations and payroll warrants, and a transfer from checking to investment management made up the bulk of the warrant. He said Perry signed the warrant earlier in the day. Selectmen signed the warrant.

**Cash & Budget Report** – Stu noted the Municipal Revenue Sharing amount is lower than expected because of an error in June when the town received about \$3,000 too much, which was subtracted from future payments.

**Coyote Trapping** – Troy Dow said that in order to trap on someone else's land, he needs permission. He showed off a trap and had Cynthia demonstrate it. Mr. Dow said the traps do not hurt the animals and explained how they work. He said no humans would be hurt and he would not place them where people would walk. Jo said trapping coyotes seemed like a good idea. Mr. Dow said it was a useful tool. Kathy DeFusco asked if this was a sport and what Mr. Dow does with the coyotes. Mr. Dow said he does it for sport and sometimes people request the trapping because of the damage coyotes do. He said he

sells the coyotes to taxidermists. Mrs. DeFusco asked what area he had in mind. Mr. Dow said by the Gott pit on town land. Cynthia asked what the liability to the town was. Mr. Dow said the trapper is fully liable, the same as giving someone permission to hunt on private land. Cynthia said her questions were about the humanity of the trap and she's satisfied. Richard said there was a snare program started years ago but that was stopped because of problems. Stu said he contacted Maine Municipal Association and said because town meeting has not given direction one way or the other; the call would be with the Selectmen. Mr. Dow said he has permission from other landowners, and now he needs a permission slip from the town. Stu suggested the board authorize him to write the permission. Brett so moved, Richard 2<sup>nd</sup>. **Vote in favor was 4-0.**

**General Assistance Ordinance change hearing** – Selectmen signed an order setting October 19, 2006 as the public hearing on changes to the General Assistance Ordinance. The changes are the annual figure updates supplied by the federal and state government.

**TABOR** – There was a brief discussion about the upcoming debate on the TABOR question a week from tonight at Ellsworth High School. Stu said he and Cynthia attended a session with the MDI League of towns the previous week.

**Correspondence from Robert Sharkey**- Stu said a letter from Mr. Sharkey indicated he would be at the town office tomorrow to review records. Stu said the town auditors would also be present as they had made that date several weeks back to perform their annual field work. Richard said he did not understand why Mr. Sharkey keeps speaking about the Freedom of Information Act because all the records at the town hall are open and available for his inspection.

**Belch Lot Width** – Stu and Dennis reported to the Selectmen that Anthony Belch would be meeting with the Planning Board next month in regard to the lot width in the Boulder Cove subdivision. Stu said the lots had 200-feet of shore frontage if one measured the meandering shore line, but pin to pin, they were less than 200-feet wide at the 100-foot setback mark. Dennis said that would not be adequate shore frontage to allow building in the Shoreland Zone. Stu stated the matter is going before the Planning Board and there is no action for the Selectmen to take at this time.

**Other** – Cynthia said she appreciated the list of known contracts Stu printed off. There was a short discussion on the excise tax quarterly report and the Rapid Renewal program.

**Executive Session** – Jo moved to go into executive session pursuant to 1 MRSA § 405 (6) (A) – Personnel Matter (Deputy CEO applications) Richard 2<sup>nd</sup>. **Vote in favor was 4-0.** In at 8:45 PM Out at 9:00 PM

**Budget Workshop** – Following the exit from the executive session there was a workshop on the Administration Budget. Selectmen instructed Stu to remove a color laser printer from the budget and to provide the MMA salary survey information for the budget committee.

There being no further business, the meeting adjourned at 9:30 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.